



MEMO ENDORSED

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By Email

Hon. Richard J. Sullivan
United States District Judge
Southern District of New York
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

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Re: Enzo Biochem et al. v. Amersham et al. (No. 02 Civ 8448)
Enzo Biochem et al. v. Molecular Probes et al. (No. 03 Civ 3816)
Enzo Biochem et al. v. PerkinElmer et al. (No. 03 Civ 3817)
Enzo Biochem et al. v. Orchid Biosciences (No. 03 Civ 3819)
Affymetrix v. Enzo Biochem et al. (No. 03 Civ 8907)
Enzo Life Sciences v. Affymetrix (No. 04 Civ 1555)
Roche Diagnostics v. Enzo Biochem, et al. (No. 04 Civ 4046)

Dear Judge Sullivan:

This letter is submitted on behalf of plaintiffs and/or declaratory judgment defendants Enzo Biochem, Inc. and Enzo Life Sciences, Inc. (collectively, "Enzo"). Please accept this letter in lieu of our letter from earlier today, as an application for an order sealing the following documents, which Enzo intends to file and serve on December 13, 2011:

- An unredacted version of Enzo's Memorandum in Opposition to Defendants' Renewed Joint Motion for Summary Judgment (the "Memorandum");
- An unredacted version of Enzo's Statement of Material Facts Showing Genuine Issues to be Tried in Opposition to Defendants' Renewed Joint Motion for Summary Judgment ("Statement of Material Facts");
- Exhibits 8-12, 17, 18, 22-24, 27, 36, 39, 40, 42, 44-58, 62-69, 71-75, 81, and 82 to the Declaration of Justin A. MacLean in Support of Enzo's Opposition to Defendants' Renewed Joint Motion for Summary Judgment;

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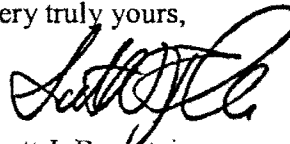
- An unredacted version of the Declaration of Richard Rankin Sinden, Ph.D. in Support of Enzo's Opposition to Defendants' Renewed Joint Motion for Summary Judgment;
- Exhibit 8 and complete versions of Exhibits 10,¹ 12 and 14 to the Declaration of Richard Rankin Sinden, Ph.D. in Support of Enzo's Opposition to Defendants' Renewed Joint Motion for Summary Judgment;
- An unredacted version of the Declaration of Justin A. MacLean in Support of Enzo's Request for Discovery Pursuant to Fed. R. Civ. P. 56(d); and
- Exhibit 13 to the Declaration of Justin A. MacLean in Support of Enzo's Request for Discovery Pursuant to Fed. R. Civ. P. 56(d).

The unredacted Memorandum, unredacted Statement of Material Facts, unredacted Declarations, and the Exhibits noted above contain highly confidential information that is covered under (1) the confidentiality provisions of certain distributor agreements between the parties, and/or (2) the protective orders in the above-referenced actions. The Court granted a similar application in connection with the defendants' and/or declaratory judgment plaintiffs' ("Defendants") renewed Joint Motion for Summary Judgment. *See* Dkt. No. 255, *Enzo Biochem, Inc., et al. v. Amersham PLC, et al.* 02-cv-08448 (S.D.N.Y.). The Court (per the Honorable John Sprizzo) has also granted similar applications in connection with Defendants' prior summary judgment motions and Enzo's oppositions thereto. For those documents referred to above as "unredacted" or "complete," a version with confidential information redacted will be electronically filed separately for public availability.

Accordingly, I respectfully ask the Court to grant this application for an order sealing the above-referenced unredacted Memorandum, unredacted Statement of Material Facts, unredacted Declarations, and Exhibits.


Thank you for your consideration.

Very truly yours,



Scott J. Bornstein

cc: Counsel of record


12/12/11
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¹ Exhibit 10 to the Sinden Declaration contains highly confidential information as described herein, but was inadvertently omitted from our prior letter to your Honor.